



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Sony Corporation of America
File: B-225512.2
Date: March 20, 1987

DIGEST

Even if agency relaxed its requirements by not requiring successful offeror to furnish information about guaranteed maximum shipping weights and dimensions, agency had sufficient information with which to evaluate transportation costs for the successful offeror and difference in price between successful offeror and protester amounted to more than \$25,000 while transportation costs amounted to approximately \$5,000 so that protester was not prejudiced by alleged waiver of requirements by the agency.

DECISION

Sony Corporation of America protests the award of an indefinite quantity contract for high-density video tape cassettes to Spartan Industries, Inc., under request for proposals (RFP) No. F04606-86-R-0233, issued by the Department of the Air Force, Sacramento Air Logistics Center, California. The RFP limited competition to products manufactured by four previously approved sources, including Sony, that were listed in the solicitation. However, the RFP permitted offers from other firms, such as Spartan, to be considered provided they presented sufficient data to allow the government to evaluate the acceptability of the offered items. The Air Force technical evaluators found the tape cassettes offered by Spartan to be acceptable. However, Sony contends that the Spartan proposal failed to contain guaranteed maximum shipping weights and dimensions as required by the RFP and therefore should have been rejected.

We deny the protest.

The solicitation stated that each offer would be evaluated to the destination specified by adding to the f.o.b. origin price all transportation costs and that guaranteed maximum shipping weights and dimensions were required to determine proper transportation costs. The solicitation also stated

038375

that government estimated weights and dimensions were not available and that failure to furnish the required information "may" cause a proposal to be rejected.

Eight proposals (three from approved sources and five from unapproved sources) were received by September 4, 1986, the closing date for receipt of initial proposals. Discussions were held with five offerors determined to be within the competitive range, including Spartan and Sony. Best and final offers were received by the due date of September 24, 1986. The low offeror, Spartan, proposed Maxell Professional High Grade video tape, P/N KCA-60HGPA. Spartan offered a price of \$10.97 per tape (\$522,555.95 for the maximum quantity), while the second low offeror, Sony, offered a price of \$11.50 per tape (\$547,802.50 for the maximum quantity). However, Spartan failed to submit information concerning its guaranteed maximum shipping weights and dimensions.

The Air Force reports that of five offerors determined to be within the competitive range, four submitted guaranteed maximum shipping weights and dimensions. Among these four was Maxell Corporation of America, which also proposed to furnish P/N KCA-60HGPA and which furnished shipping weights and dimensions for the identical item that Spartan offered. The Air Force used these shipping weights and dimensions from Maxell to calculate the transportation costs for Spartan. Because the Air Force had sufficient information with which to calculate transportation costs for Spartan, the Air Force did not reject the Spartan proposal. Further, the Air Force transportation specialist determined that transportation costs for the five contractors, on a per tape weight basis, ranged from \$495 for the contractor closest to the base to \$2,536 for Sony which was located in New Jersey. On a container weight basis, the agency's transportation specialist also concluded that maximum transportation costs of \$5,036.20 would be incurred and that "[t]ransportation costs are not significant in this procurement."

We find no merit to the protester's contention that the Spartan proposal should have been rejected for failing to submit guaranteed maximum shipping weights and dimensions. The record shows that the agency evaluated offers, including transportation costs, since the agency had available to it all necessary information to evaluate the transportation costs of Spartan's proposed item. Further, even if we assume that the agency relaxed a requirement for Spartan by not requiring the firm to submit guaranteed shipping weights, the difference in cost between the low offeror, Spartan, and the second low offeror, Sony, amounted to more than \$25,000 and

the transportation cost were evaluated to cost no more than approximately \$5,000. Under these circumstances, and given the nature of the product, we think that any potential change in packing from that which was evaluated could not conceivably increase the shipping costs to the government by an amount that would approach the difference in Spartan's and Sony's offers. Thus, we are of the view that Sony was not prejudiced by the Air Force's relaxation of this requirement. See Centennial Computer Products, Inc., B-211645, May 18, 1984, 84-1 CPD ¶ 528.

The protest is denied.

for *Seymour E. Gross*
Harry R. Van Cleve
General Counsel